



ARKANSAS JUDICIARY

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Rule 14. Third-Party Practice.

(a) When Defendant May Bring in Third Party. At any time after commencement of the action a defending party, as a third party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him. The third party plaintiff need not obtain leave to make the service if he files the third party complaint not later than 10 days after he files his answer. Otherwise, he must obtain leave on motion upon notice to all parties to the action. The person served with the summons and the third party complaint, hereinafter called the third-party defendant, shall make his defenses to the third party plaintiff's claim as provided in Rule 12 and his counterclaims against the third party plaintiff and cross-claims against other third party defendants as provided in Rule 13. The third party defendant may assert against the plaintiff any defenses which the third party plaintiff has to the plaintiff's claim. The third party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third party plaintiff. The plaintiff may assert any claim against the third party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third party plaintiff and the third party defendant shall thereupon assert his defenses as provided in Rule 12 and his counterclaims and cross-claims as provided in Rule 13. Any party may move to strike the third party claim or for its severance or separate trial. A third party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third party defendant.

(b) When Plaintiff May Bring in Third Party. When a counterclaim is asserted against a plaintiff, he may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

Reporter's Notes to Rule 14: - 1. Rule 14 is substantially the same as FRCP and superseded Ark. Stat. Ann. 27-1134.1 (Supp. 1975). The latter was patterned after the Federal Rule. Omitted are the references in FRCP 14(a) to admiralty and maritime claims. Section (c) of the Federal Rule is omitted in its entirety.

2. Superseded Ark. Stat. Ann. 27-1134.1 (Supp. 1975) provided that where a third party complaint was not filed within ten days after the filing of the answer, leave of court on motion was required. This rule follows the requirement contained in the Federal Rule that leave of the court must be obtained on motion upon notice to all parties to the action. This will afford the opportunity to parties already in an action to object to the filing of a third party complaint if objection is warranted.

3. The purpose of Rule 14, as construed by the federal courts, is to facilitate the trial of multiple claims which would otherwise be triable only in separate proceedings. *United States v. Yellow Cab Co.*, 340 U.S. 543, 71 S. Ct. 399 (1951). There is no set time during which a

third party action must be initiated by a defendant; rather, the timeliness of defendant's application is left to the discretion of the trial court which must consider whether allowing the third party complaint will result in prejudice to the other parties. *Meilinger v. Metropolitan Edison Co.*, 34 F.R.D. 143 (D.C. Pa., 1963); *Kubik v. Goldfield*, 61 F.R.D. 572 (D.C. Pa., 1974).

Associated Court Rules:

Rules of Civil Procedure

Group Title:

III. Pleadings and Motions

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